

The Gazette of India



EXTRAORDINARY
PART II—Section 1
PUBLISHED BY AUTHORITY

No. 51] NEW DELHI, MONDAY, DECEMBER 29, 1952

MINISTRY OF LAW

New Delhi, the 29th December, 1952

The following Acts of Parliament received the assent of the President on the 26th December, 1952 and are hereby published for general information.—

THE INDIAN POWER ALCOHOL (AMENDMENT) ACT, 1952

No. LXXXIII OF 1952

[26th December, 1952]

An Act to amend the Indian Power Alcohol Act, 1948.

Be it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Indian Power Alcohol (Amendment) Act, 1952.

2. Amendment of section 1, Act XXII of 1948.—In sub-section (2) of section 1 of the Indian Power Alcohol Act, 1948 (hereinafter referred to as the principal Act), for the words and letter “except Part B States”, the words “except the State of Jammu and Kashmir” shall be substituted.

3. Substitution of new section for section 2 in Act XXII of 1948.—For section 2 of the principal Act, the following section shall be substituted, namely:—

“**2. Declaration as to expediency of control by the Union.**—It is hereby declared that it is expedient in the public interest that the Union should take under its control the power alcohol industry.”

4. Validation of certain acts and indemnity in respect thereof.—All acts of executive authority, proceedings and sentences which have been done, taken or passed with respect to, or on account of, power alcohol during the period commencing on the 26th day of January, 1950, and ending with the commencement of the Industries (Development and Regulation) Act, 1951 (LXV of 1951), by the Government or by any officer of the Government or by any other authority in the belief or purported belief

that the acts, proceedings or sentences were being done, taken or passed under the Indian Power Alcohol Act, 1948, shall be as valid and operative as if they had been done, taken or passed in accordance with law, and no suit or other legal proceeding shall be maintained or continued against any authority whatsoever on the ground that any such acts, proceedings or sentences were not done, taken or passed in accordance with law.

THE FORWARD CONTRACTS (REGULATION) ACT, 1952

No. LXXIV of 1952

[26th December, 1952]

An Act to provide for the regulation of certain matters relating to forward contracts, the prohibition of options in goods and for matters connected therewith.

Be it enacted by Parliament as follows:—

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.—(1) This Act may be called the Forward Contracts (Regulation) Act, 1952.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) Chapter I shall come into force at once, and the remaining provisions shall come into force on such date or dates as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act, for different States or areas, and for different goods or classes of goods.

2. Definitions.—In this Act, unless the context otherwise requires,—

(a) “association” means any body of individuals, whether incorporated or not, constituted for the purpose of regulating and controlling the business of the sale or purchase of any goods;

(b) “Commission” means the Forward Markets Commission established under section 3;

(c) “forward contract” means a contract for the delivery of goods at a future date and which is not a ready delivery contract;

(d) “goods” means every kind of movable property other than actionable claims, money and securities;

(e) “Government security” means a Government security as defined in the Public Debt Act, 1944 (XVIII of 1944);

(f) “non-transferable specific delivery contract” means a specific delivery contract, the rights or liabilities under which or under any delivery order, railway receipt, bill of lading, warehouse receipt or any other document of title relating thereto are not transferable;

(g) “option in goods” means an agreement, by whatever name called, for the purchase or sale of a right to buy or sell, or a right to buy and sell, goods in future, and includes a *teji*, a *mandi*, a *teji-mandi*, a *galli*, a *put*, a *call* or a *put and call* in goods;

(h) “prescribed” means prescribed by rules made under this Act;

(i) "ready delivery contract" means a contract which provides for the delivery of goods and the payment of a price therefor, either immediately or within such period not exceeding eleven days after the date of the contract and subject to such conditions as the Central Government may, by notification in the Official Gazette, specify in respect of any goods, the period under such contract not being capable of extension by the mutual consent of the parties thereto or otherwise;

(j) "recognised association" means an association which is for the time being recognised by the Central Government under section 6;

(k) "rules", with reference to the rules relating in general to the constitution and management of an association, includes in the case of an incorporated association its memorandum and articles of association;

(l) "securities" includes shares, scrips, stocks, bonds, debentures, debenture-stocks, or other marketable securities of a like nature in or of any incorporated company or other body corporate and also Government securities;

(m) "specific delivery contract" means a forward contract which provides for the actual delivery of specific qualities or types of goods during a specified future period at a price fixed thereby or to be fixed in the manner thereby agreed and in which the names of both the buyer and the seller are mentioned;

(n) "transferable specific delivery contract" means a specific delivery contract which is not a non-transferable specific delivery contract.

CHAPTER II

THE FORWARD MARKETS COMMISSION

3. Establishment and constitution of the Forward Markets Commission.—(1) The Central Government may, by notification in the Official Gazette, establish a Commission to be called the Forward Markets Commission for the purpose of exercising such functions and discharging such duties as may be assigned to the Commission by or under this Act.

(2) The Commission shall consist of not less than two, but not exceeding three, members appointed by the Central Government of whom the Chairman (to be appointed by the Central Government) shall be a full-time member and the other member or members shall be full-time or part-time as the Central Government may direct:

Provided that one of the members to be so appointed shall be a person having knowledge of forward markets in India.

(3) No person shall be qualified for appointment as, or for continuing to be, a member of the Commission if he has, directly or indirectly, any such financial or other interest as is likely to affect prejudicially his functions as a member of the Commission, and every member shall, whenever required by the Central Government so to do, furnish to it such information as it may require for the purpose of securing compliance with the provisions of this sub-section.

(4) No member of the Commission shall hold office for a period of more than three years from the date of his appointment, and a member relinquishing his office on the expiry of his term shall be eligible for reappointment.

(5) The other terms and conditions of service of members of the Commission shall be such as may be prescribed.

4. Functions of the Commission.—The functions of the Commission shall be—

(a) to advise the Central Government in respect of the recognition of, or the withdrawal of recognition from, any association or in respect of any other matter arising out of the administration of this Act;

(b) to keep forward markets under observation and to draw the attention of the Central Government or of any other prescribed authority to any development taking place in, or in relation to, such markets which, in the opinion of the Commission, is of sufficient importance to deserve the attention of the Central Government and to make recommendations thereon;

(c) to collect and whenever the Commission thinks it necessary publish information regarding the trading conditions in respect of goods to which any of the provisions of this Act is made applicable, including information regarding supply, demand and prices, and to submit to the Central Government periodical reports on the operation of this Act and on the working of forward markets relating to such goods;

(d) to make recommendations generally with a view to improving the organisation and working of forward markets;

(e) to undertake the inspection of the accounts and other documents of any recognised association whenever it considers it necessary; and

(f) to perform such other duties and exercise such other powers as may be assigned to the Commission by or under this Act, or as may be prescribed.

CHAPTER III

RECOGNISED ASSOCIATIONS

5. Application for recognition of associations.—(1) Any association concerned with the regulation and control of forward contracts which is desirous of being recognised for the purposes of this Act may make an application in the prescribed manner to the Central Government.

(2) Every application made under sub-section (1) shall contain such particulars as may be proscribed and shall be accompanied by a copy of the bye-laws for the regulation and control of forward contracts and also a copy of the rules relating in general to the constitution of the association, and, in particular, to—

(a) the governing body of such association, its constitution and powers of management and the manner in which its business is to be transacted;

(b) the powers and duties of the office bearers of the association;

(c) the admission into the association of various classes of members, the qualifications of members, and the exclusion, suspension, expulsion and readmission of members therefrom or thereinto;

(d) the procedure for registration of partnerships as members of the association and the nomination and appointment of authorised representatives and clerks.

6. Grant of recognition to association.—(1) If the Central Government, after making such inquiry as may be necessary in this behalf and after obtaining such further information, if any, as it may require, is satisfied that it would be in the interest of the trade and also in the public interest to grant recognition to the association which has made an application under section 5, it may grant recognition to the association in such form and subject to such conditions as may be prescribed or specified, and shall specify in such recognition the goods or classes of goods with respect to which forward contracts may be entered into between members of such association or through or with any such member.

(2) Before granting recognition under sub-section (1), the Central Government may, by order, direct,—

(a) that there shall be no limitation on the number of members of the association or that there shall be such limitation on the number of members as may be specified;

(b) that the association shall provide for the appointment by the Central Government of a person, whether a member of the association or not, as its representative on, and of not more than three persons representing interests not directly represented through membership of the association as member or members of, the governing body of such association, and may require the association to incorporate in its rules any such direction and the conditions, if any, accompanying it.

(3) No rules of a recognised association shall be amended except with the approval of the Central Government.

(4) Every grant of recognition under this section shall be published in the Gazette of India and also in the Official Gazette of the State in which the principal office of the recognised association is situate, and such recognition shall have effect as from the date of its publication in the Gazette of India.

7. Withdrawal of recognition.—If the Central Government is of opinion that any recognition granted to an association under the provisions of this Act should, in the interest of the trade or in the public interest, be withdrawn, the Central Government may, after giving a reasonable opportunity to the association to be heard in the matter, withdraw, by notification in the Official Gazette, the recognition granted to the said association:

Provided that no such withdrawal shall affect the validity of any contract entered into or made before the date of the notification, and the Central Government may make such provision as it deems fit in the notification of withdrawal or in any subsequent notification similarly published for the due performance of any contracts outstanding on that date.

8. Power of Central Government to call for periodical returns or direct inquiries to be made.—(1) Every recognised association shall furnish to the Central Government such periodical returns relating to its affairs or the affairs of its members as may be prescribed.

(2) Without prejudice to the provisions contained in sub-section (1), where the Central Government considers it expedient so to do, it may, by order in writing,—

(a) call upon a recognised association to furnish in writing such information or explanation relating to its affairs or the affairs of any of its members as the Central Government may require, or

(b) appoint one or more persons to make an inquiry in relation to the affairs of such association or the affairs of any of its members and submit a report of the result of such inquiry to the Central Government within such time as may be specified in the order or, in the alternative, direct the inquiry to be made, and the report to be submitted, by the governing body of such association acting jointly with one or more representatives of the Central Government; and

(c) direct the Commission to inspect the accounts and other documents of any recognised association or of any of its members and submit its report thereon to the Central Government.

(3) Where an inquiry in relation to the affairs of a recognised association or the affairs of any of its members has been undertaken under sub-section (2)—

(a) every director, manager, secretary or other officer of such association,

(b) every member of such association,

(c) if the member of the association is a firm, every partner, manager, secretary or other officer of the firm, and

(d) every other person or body of persons who has had dealings in the course of business with any of the persons mentioned in clauses (a), (b) and (c),

shall be bound to produce before the authority making the inquiry, all such books, accounts, correspondence and other documents in his custody or power relating to, or having a bearing on the subject-matter of, such inquiry and also to furnish the authority with any such statement or information relating thereto as may be required of him, within such time as may be specified.

9. Furnishing of annual reports to the Central Government by recognised associations.—(1) Every recognised association shall furnish to the Central Government a copy of its annual report.

(2) Such annual report shall contain such particulars as may be prescribed.

10. Power of Central Government to direct rules to be made or to make rules. - (1) Whenever the Central Government considers it expedient so to do, it may, by order in writing, direct any recognised association to make any rules or to amend any rules made by the recognised association within such period as it may specify in this behalf.

(2) If any recognised association, against whom an order is issued by the Central Government under sub-section (1), fails or neglects to comply with such order within the specified period, the Central Government may make the rules or amend the rules made by the recognised association, as the case may be, either in the form specified in the order or with such modification thereof as the Central Government may think fit.

(3) Where, in pursuance of sub-section (2), any rules have been made or amended, the rules so made or amended shall be published in the Gazette of India and also in the Official Gazette of the State in which the principal office of the recognised association is situate, and on the publication thereof in the Gazette of India, the rules so made or amended, shall, notwithstanding anything to the contrary contained in the Indian Companies Act, 1913 (VII of 1913), or any other law for the time being in force,

have effect as if they had been made or amended by the recognised association concerned.

11. Power of recognised association to make bye-laws.—(1) Any recognised association may, subject to the previous approval of the Central Government, make bye-laws for the regulation and control of forward contracts.

(2) In particular, and without prejudice to the generality of the foregoing power, such bye-laws may provide for—

(a) the opening and closing of markets and the regulation of the hours of trade;

(b) a clearing house for the periodical settlement of contracts and differences thereunder, the delivery of, and payment for, goods, the passing on of delivery orders and for the regulation and maintenance of such clearing house;

(c) the number and classes of contracts in respect of which settlements shall be made or differences paid through the clearing house;

(d) fixing, altering or postponing days for settlement;

(e) determining and declaring market rates, including opening, closing, highest and lowest rates for goods;

(f) the terms, conditions and incidents of contracts including the prescription of margin requirements, if any, and conditions relating thereto, and the forms of contracts in writing;

(g) regulating the entering into, making, performance, rescission and termination of contracts, including contracts between members or between a commission agent and his constituent, or between a broker and his constituent, or between a member of the recognised association and a person who is not a member, and the consequences of default or insolvency on the part of a seller or buyer or intermediary, the consequences of a breach or omission by a seller or buyer and the responsibility of commission agents and brokers who are not parties to such contracts;

(h) the admission and prohibition of specified classes or types of goods or of dealings in goods by a member of the recognised association;

(i) the method and procedure for the settlement of claims or disputes including the settlement thereof by arbitration;

(j) the levy and recovery of fees, fines and penalties;

(k) the regulation of the course of business between parties to contracts in any capacity;

(l) the fixing of a scale of brokerage and other charges;

(m) the making, comparing, settling and closing of bargains;

(n) the regulation of fluctuations in rates and prices;

(o) the emergencies in trade which may arise and the exercise of powers in such emergencies including the power to fix maximum and minimum prices;

(p) the regulation of dealings by members for their own account;

(q) the limitations on the volume of trade done by any individual member;

(r) the obligation of members to supply such information or explanation and to produce such books relating to their business as the governing body may require.

(s) The bye-laws made under this section may—

(a) specify the bye-laws the contravention of any of which shall make a contract entered into otherwise than in accordance with the bye-laws void under sub-section (2) of section 15;

(b) provide that the contravention of any of the bye-laws shall—

(i) render the member concerned liable to fine; or

(ii) render the member concerned liable to expulsion or suspension from the recognised association or to any other penalty of a like nature not involving the payment of money.

(t) Any bye-laws made under this section shall be subject to such conditions in regard to previous publication as may be prescribed, and when approved by the Central Government, shall be published in the Gazette of India and also in the Official Gazette of the State in which the principal office of the recognised association is situate:

Provided that the Central Government may, in the interest of the trade or in the public interest, by order in writing, dispense with the condition of previous publication, in any case.

12. Power of Central Government to make or amend bye-laws of recognised associations.—(1) The Central Government may, either on a request in writing received by it in this behalf from the governing body of a recognised association, or if in its opinion it is expedient so to do, make bye-laws for all or any of the matters specified in section 11 or amend any bye-laws made by such association under that section.

(2) Where, in pursuance of this section, any bye-laws have been made or amended, the bye-laws so made or amended shall be published in the Gazette of India and also in the Official Gazette of the State in which the principal office of the recognised association is situate, and on the publication thereof in the Gazette of India the bye-laws so made or amended shall have effect as if they had been made or amended by the recognised association.

(3) Notwithstanding anything contained in this section, where the governing body of a recognised association objects to any bye-laws made or amended under this section by the Central Government on its own motion, it may, within six months of the publication thereof under sub-section (2), apply to the Central Government for a revision thereof, and the Central Government may, after giving a reasonable opportunity to the governing body of the association to be heard in the matter, revise the bye-laws so made or amended, and where any bye-laws so made or amended are revised as a result of any action taken under this sub-section, the bye-laws so revised shall be published and shall become effective as provided in sub-section (2).

(4) The making or the amendment or revision of any bye-laws under this section shall in all cases be subject to the condition of previous publication:

Provided that the Central Government may, in the interest of the trade or in the public interest, by order in writing, dispense with the condition of previous publication.

13. Power of Central Government to supersede governing body of recognised association.—(1) Without prejudice to any other powers vested in the Central Government under this Act, where the Central Government is of opinion that the governing body of any recognised association should be superseded, then, notwithstanding anything contained in this Act or in any other law for the time being in force, the Central Government may, after giving a reasonable opportunity to the governing body of the recognised association concerned to show cause why it should not be superseded, by notification in the Official Gazette, declare the governing body of such association to be superseded for such period not exceeding six months as may be specified in the notification, and may appoint any person or persons to exercise and perform all the powers and duties of the governing body, and where more persons than one are appointed may appoint one of such persons to be the chairman and another of such persons to be the vice-chairman.

(2) On the publication of a notification in the Official Gazette under sub-section (1), the following consequences shall ensue, namely:—

(a) the members of the governing body which has been superseded shall, as from the date of the notification of supersession cease to hold office as such members;

(b) the person or persons appointed under sub-section (1) may exercise and perform all the powers and duties of the governing body which has been superseded;

(c) all such property of the recognised association as the person or persons appointed under sub-section (1) may, by order in writing, specify in this behalf as being necessary for the purpose of enabling him or them to carry out the purposes of this Act, shall vest in such person or persons.

(3) Notwithstanding anything to the contrary contained in any law or the rules or bye-laws of the association whose governing body is superseded under sub-section (1), the person or persons appointed under that sub-section shall hold office for such period as may be specified in the notification published under that sub-section, and the Central Government may, from time to time, by like notification vary such period.

(4) On the determination of the period of office of any person or persons appointed under this section the recognised association shall forthwith reconstitute a governing body in accordance with its rules:

Provided that until a governing body is so reconstituted, the person or persons appointed under sub-section (1) shall, notwithstanding anything contained in sub-section (1), continue to exercise and perform their powers and duties.

(5) On the reconstitution of a governing body under sub-section (4), all the property of the recognised association which had vested in, or was in the possession of, the person or persons appointed under sub-section (1) shall vest or revest, as the case may be, in the governing body so reconstituted.

14. Power to suspend business of recognised associations.—If in the interest of the trade or in the public interest the Central Government considers it expedient so to do, it may, by notification in the Official Gazette, direct a recognised association to suspend such of its business for such period not exceeding seven days and subject to such conditions as may be specified in the notification, and may if, in the opinion of the Central Government, the interest of the trade or the public interest so requires by like notification extend the said period from time to time:

Provided that where the period of suspension is likely to exceed one month, no notification extending the suspension beyond such period shall be issued, unless the governing body of the recognised association has been given an opportunity of being heard in the matter.

CHAPTER IV

FORWARD CONTRACTS AND OPTIONS IN GOODS

15. Forward contracts in notified goods illegal or void in certain circumstances.—(1) The Central Government may, by notification in the Official Gazette, declare this section to apply to such goods or class of goods and in such areas as may be specified in the notification, and thereupon, subject to the provisions contained in section 18, every forward contract for the sale or purchase of any goods specified in the notification which is entered into in the area specified therein otherwise than between members of a recognised association or through or with any such member shall be illegal.

(2) Any forward contract in goods entered into in pursuance of sub-section (1) which is in contravention of any of the bye-laws specified in this behalf under clause (a) of sub-section (3) of section 11 shall be void—

(i) as respects the rights of any member of the recognised association who has entered into such contract in contravention of any such bye-law, and also

(ii) as respects the rights of any other person who has knowingly participated in the transaction entailing such contravention.

(3) Nothing in sub-section (2) shall affect the right of any person other than a member of the recognised association to enforce any such contract or to recover any sum under or in respect of such contract:

Provided that such person had no knowledge that such transaction was in contravention of any of the bye-laws specified under clause (a) of sub-section (3) of section 11.

(4) No member of a recognised association shall, in respect of any goods specified in the notification under sub-section (1), enter into any contract on his own account with any person other than a member of the recognised association, unless he has secured the consent or authority of such person and discloses in the note, memorandum or agreement of sale or purchase that he has bought or sold the goods, as the case may be, on his own account:

Provided that where the member has secured the consent or authority of such person otherwise than in writing he shall secure a written confirmation by such person of such consent or authority within three days from the date of such contract:

Provided further that in respect of any outstanding contract entered into by a member with a person other than a member of the recognised

association, no consent or authority of such person shall be necessary for closing out in accordance with the bye-laws the outstanding contract, if the member discloses in the note, memorandum or agreement of sale or purchase in respect of such closing out that he has bought or sold the goods, as the case may be, on his own account.

16. Consequences of notification under section 15.—Where a notification has been issued under section 15, then notwithstanding anything contained in any other law for the time being in force or in any custom, usage or practice of the trade or the terms of any contract or the bye-laws of any association concerned relating to any contract,—

(a) every forward contract for the sale or purchase of any goods specified in the notification, entered into before the date of the notification and remaining to be performed after the said date and which is not in conformity with the provisions of section 15, shall be deemed to be closed out at such rate as the Central Government may fix in this behalf, and different rates may be fixed for different classes of such contracts;

(b) all differences arising out of any contract so deemed to be closed out shall be payable on the basis of the rate fixed under clause (a) and the seller shall not be bound to give and the buyer shall not be bound to take delivery of the goods.

17. Power to prohibit forward contracts in certain cases.—(1) The Central Government may, by notification in the Official Gazette, declare that no person shall, save with the permission of the Central Government, enter into any forward contract for the sale or purchase of any goods or class of goods specified in the notification and to which the provisions of section 15 have not been made applicable, except to the extent and in the manner, if any, as may be specified in the notification.

(2) All forward contracts in contravention of the provisions of sub-section (1) entered into after the date of publication of the notification thereunder shall be illegal.

(3) Where a notification has been issued under sub-section (1), the provisions of section 16 shall, in the absence of anything to the contrary in the notification, apply to all forward contracts for the sale or purchase of any goods specified in the notification entered into before the date of the notification and remaining to be performed after the said date as they apply to all forward contracts for the sale or purchase of any goods specified in the notification under section 15.

18. Special provisions respecting certain kinds of forward contracts.—(1) Nothing contained in Chapter III or Chapter IV shall apply to non-transferable specific delivery contracts for the sale or purchase of any goods;

Provided that no person shall organise or assist in organising or be a member of any association in any area to which the provisions of section 15 have been made applicable (other than a recognised association) which provides facilities for the performance of any non-transferable specific delivery contract by any party thereto without having to make or to receive actual delivery to or from the other party to the contract or to or from any other party named in the contract.

(2) Where in respect of any area the provisions of section 15 have been made applicable in relation to forward contracts for the sale or purchase of any goods or class of goods, the Central Government may, by a like notification, declare that in the said area or any part thereof as may be specified in the notification all or any of the provisions of Chapter III or Chapter IV shall not apply to transferable specific delivery contracts for the sale or purchase of the said goods or class of goods either generally, or to any class of such contracts in particular.

(3) Notwithstanding anything contained in sub-section (1), if the Central Government is of opinion that in the interest of the trade or in the public interest it is expedient to regulate and control non-transferable specific delivery contracts in any area, it may, by notification in the Official Gazette, declare that all or any of the provisions of Chapters III and IV shall apply to such class or classes of non-transferable specific delivery contracts in such area and in respect of such goods or class of goods as may be specified in the notification, and may also specify the manner in which and the extent to which all or any of the said provisions shall so apply.

19. Prohibition of options in goods.—(1) Notwithstanding anything contained in this Act or in any other law for the time being in force, all options in goods entered into after the date on which this section comes into force shall be illegal.

(2) Any option in goods which has been entered into before the date on which this section comes into force and which remains to be performed, whether wholly or in part, after the said date shall, to that extent, become void.

CHAPTER V

PENALTIES AND PROCEDURE

20. Penalty for contravention of certain provisions of Chapter IV.—

(1) Any person who—

(a) without reasonable excuse (the burden of proving which shall be on him) fails to comply with any requisition made under sub-section (3) of section 8; or

(b) organises, or assists in organising, or is a member of, any association in contravention of the provisions contained in the proviso to sub-section (1) of section 18; or

(c) enters into any forward contract or any option in goods in contravention of any of the provisions contained in sub-section (1) of section 15, section 17 or section 18,

shall, on conviction, be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

(2) Any person who enters into any forward contract in contravention of the provisions contained in sub-section (4) of section 15 shall, on conviction, be punishable with fine.

21. Penalty for owning or keeping place used for entering into forward contracts in goods.—Any person who—

(a) owns or keeps a place other than that of a recognised association, which is used for the purpose of entering into or making or performing, whether wholly or in part, any forward contracts in contravention of any of the provisions of this Act and knowingly permits such place to be used for such purposes, or

(b) without the permission of the Central Government, organises, or assists in organising, or becomes a member of, any association, other than a recognised association, for the purpose of assisting in, entering into or making or performing, whether wholly or in part, any forward contracts in contravention of any of the provisions of this Act, or

(c) manages, controls or assists in keeping any place other than that of a recognised association, which is used for the purpose of entering into or making or performing, whether wholly or in part, any forward contracts in contravention of any of the provisions of this Act or at which such forward contracts are recorded or adjusted, or rights or liabilities arising out of such forward contracts are adjusted, regulated or enforced in any manner whatsoever, or

(d) not being a member of a recognised association, wilfully represents to, or induces, any person to believe that he is a member of a recognised association or that forward contracts can be entered into or made or performed, whether wholly or in part, under this Act through him, or

(e) not being a member of a recognised association or his agent authorised as such under the rules or bye-laws of such association; canvasses, advertises or touts in any manner, either for himself or on behalf of any other person, for any business connected with forward contracts in contravention of any of the provisions of this Act, or

(f) joins, gathers, or assists in gathering at any place, other than the place of business specified in the bye-laws of a recognised association, any person or persons for making bids or offers or for entering into or making or performing, whether wholly or in part, any forward contracts in contravention of any of the provisions of this Act, or

(g) makes, publishes or circulates any statement or information which is false and which he either knows or believes to be false, affecting or tending to affect the course of business in forward contracts in respect of goods to which the provisions of section 15 have been made applicable,

shall, on conviction, be punishable with imprisonment which may extend to two years, or with fine, or with both.

22. Offences by companies.—(1) Where an offence has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of, the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any gross negligence on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

23. Certain offences to be cognizable.—Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), any offence punishable under sub-section (1) of section 20 or section 21 shall be deemed to be a cognizable offence within the meaning of that Code.

24. Jurisdiction to try offences under this Act.—No court inferior to that of a presidency magistrate or a magistrate of the first class shall take cognizance of or try any offence punishable under this Act.

CHAPTER VI

MISCELLANEOUS

25. Advisory Committee.—For the purpose of advising the Central Government in relation to any matter concerning the operation of this Act, the Central Government may establish an advisory committee consisting of such number of persons as may be prescribed.

26. Power to delegate.—The Central Government may, by notification in the Official Gazette, direct that any power exercisable by it under this Act may, in such circumstances and subject to such conditions, if any, as may be specified, be exercised by such officer or authority, including any State Government or officers or authorities thereof as may be specified in the direction.

27. Power to exempt.—The Central Government may, by notification in the official Gazette, exempt, subject to such conditions and in such circumstances and in such areas as may be specified in the notification, any contract or class of contracts from the operation of all or any of the provisions of this Act.

28. Power to make rules.—(1) The Central Government may, by notification in the Official Gazette, make rules for the purpose of carrying into effect the objects of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the terms and conditions of service of members of the Commission;

- (b) the manner in which applications for recognition may be made under section 5 and the levy of fees in respect thereof;
- (c) the manner in which any inquiry for the purpose of recognising any association may be made and the form in which recognition shall be granted;
- (d) the particulars to be contained in the annual reports of recognised associations;
- (e) the manner in which the bye-laws to be made, amended or revised under this Act shall, before being so made, amended or revised, be published for criticism;
- (f) the constitution of the advisory committee established under section 25, the terms of office of and the manner of filling vacancies among members of the committee; the interval within which meetings of the advisory committee may be held and the procedure to be followed at such meetings; and the matters which may be referred by the Central Government to the advisory committee for advice;
- (g) any other matter which is to be or may be prescribed.

THE WEST BENGAL EVACUEE PROPERTY (TRIPURA AMENDMENT) ACT, 1952

No. LXXV of 1952

[26th December, 1952]

An Act further to amend the West Bengal Evacuee Property Act, 1951, as extended to Tripura.

Be it enacted by Parliament as follows:—

1. Short title.—This Act may be called the West Bengal Evacuee Property (Tripura Amendment) Act, 1952.

2. Amendment of section 2, West Bengal Act V of 1951, as extended to Tripura.—In clause (b) of section 2 of the West Bengal Evacuee Property Act, 1951, as extended to the State of Tripura by the notification of the Government of India in the Ministry of States, No. 101-R.C., dated the 9th May, 1951 (hereinafter referred to as the principal Act), for the words and figures “the 15th day of June” the words and figure “the 9th day of July” shall be substituted and shall be deemed always to have been substituted.

3. Insertion of new section 5A in West Bengal Act V of 1951, as extended to Tripura.—After section 5 of the principal Act, the following section shall be inserted, namely:—

“5A. Special provision in respect of bargadars.—(1) Where an evacuee who, as a bargadar, was in actual possession of any agricultural land on or after the 15th day of August, 1947, has returned to Tripura before the appointed day and has, before the 6th day of November, 1952, made an application in writing to the Collector for being restored to the possession of that land as a bargadar, then,

notwithstanding anything contained in any other law for the time being in force or any contract to the contrary, the applicant shall be, and shall be deemed to have been, entitled to be restored to actual possession of that land as a bargadar, at the beginning of the next crop season which would be available after the application, on the same terms and conditions, as far as may be, as were applicable to him as such bargadar when he left Tripura.

(2) On any such application as is referred to in sub-section (1), the Collector shall, after making such summary inquiry as he thinks fit and it satisfied that the applicant should be restored to the possession of any agricultural land as a bargadar, place the applicant or empower any officer subordinate to him to place the applicant in the possession of that land on the same terms and conditions, as far as may be, as were applicable to him when he left Tripura, and for such purpose, the Collector or the officer, as the case may be, may use or cause to be used such force as may be necessary.

Explanation.—For the purposes of this section, a ‘bargadar’ means a person who, under the system generally known as *adhi, barga* or *bhag*, cultivates the land of another person on condition of delivering a share or quantity of the produce of such land to that person.”

4. Repeal.—(1) The West Bengal Evacuee Property (Tripura Amendment) Ordinance, 1952 (VI of 1952), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in the exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act, as if this Act were in force on the day on which such thing was done or action was taken.

THE INFLUX FROM PAKISTAN (CONTROL) REPEALING ACT, 1952

No. LXXVI of 1952

[26th December, 1952]

An Act to provide for the repeal of the Influx from Pakistan (Control) Act, 1949

BE it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Influx from Pakistan (Control) Repealing Act, 1952.

2. Repeal of Act XXIII of 1949 and Ordinance VII of 1952.—The Influx from Pakistan (Control) Act, 1949, and the Influx from Pakistan (Control) Repealing Ordinance, 1952, are hereby repealed.

3. Savings.—(1) The repeal of the Influx from Pakistan (Control) Act, 1949 (XXIII of 1949), shall not affect the continuance in force, according to its tenor, of any permit which is intended to continue in force beyond the 15th day of October, 1952, and any person who commits a breach of any of the conditions of the permit or against whom a reasonable

suspicion exists that he has committed such breach, may be prosecuted, punished or proceeded against under section 5 or section 7 of the Act hereby repealed as if the said section had continued in force.

(2) For the removal of doubts it is hereby declared that the provisions contained in sub-section (1) shall be without prejudice to the general application of section 6 of the General Clauses Act, 1897 (X of 1897).

THE ABDUCTED PERSONS (RECOVERY AND RESTORATION) AMENDMENT ACT, 1952

No. LXXVII of 1952

[26th December, 1952]

An Act further to amend the Abducted Persons (Recovery and Restoration) Act, 1949.

Be it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Abducted Persons (Recovery and Restoration) Amendment Act, 1952.

2. Amendment of section 1, Act LXV of 1949.—In section 1 of the Abducted Persons (Recovery and Restoration) Act, 1949 (hereinafter referred to as the principal Act), for sub-section (2), the following sub-sections shall be substituted, namely:—

"(2) Section 5 extends to the whole of India, and the remaining provisions extend to the States of Punjab, Uttar Pradesh, Patiala and East Punjab States Union, Rajasthan and Delhi.

(3) This Act shall remain in force up to the 28th day of February, 1954."

3. Substitution of new section for section 8 in Act LXV of 1949.—For section 8 of the principal Act, the following section shall be substituted, namely:—

"**3. Establishment of camps.**—(1) The Central Government may, in any State to which this Act extends, establish as many camps as it may consider necessary for the reception and temporary detention of abducted persons, and any place established in the State before the commencement of the Abducted Persons (Recovery and Restoration) Amendment Act, 1952, for such reception and detention shall be deemed to be a camp established by the Central Government within the meaning of this section.

(2) The Central Government shall, as soon as may be practicable, notify in the Official Gazette all camps established in every State to which this Act extends."

4. Amendment of section 4, Act LXV of 1949.—In section 4 of the principal Act,—

(a) in sub-section (1), for the words "State Government", the words "Central Government" shall be substituted;

(b) in sub-section (2), for the words "conferred by sub-section (1) any such police officer", the words "conferred on him by this section or by section 5, any police officer" shall be substituted.

5. Substitution of new section for section 5 in Act LXV of 1949.—For section 5 of the principal Act, the following section shall be substituted, namely:—

"5. Power to take into custody abducted persons found in territories to which the other provisions of this Act do not extend.—Notwithstanding anything contained in the Delhi Special Police Establishment Act, 1946 (XXV of 1946), any police officer belonging to the Delhi Special Police Establishment who is specially authorised by the Central Government in this behalf may, if he has reason to believe that an abducted person has been removed from any place in any of the States specified in sub-section (2) of section 1 and that such person is residing or is to be found in any other place in India, without warrant and after securing the assistance of the officer in charge of the police station within whose jurisdiction the abducted person is believed to be residing or is to be found, enter and search the place and take into custody any such person and deliver or cause to be delivered such person to the custody of the officer in charge of the camp in the State from which the abducted person has been removed:

Provided that nothing contained in this section shall be deemed to enable any member of the Delhi Special Police Establishment to exercise any powers conferred thereby in a Part A State or a Part B State without the consent of the Government of that State."

6. Amendment of section 7, Act LXV of 1949.—In sub-section (1) of section 7 of the principal Act, for the words "State Government", the words "Central Government" shall be substituted.

7. Amendment of section 9, Act LXV of 1949.—In section 9 of the principal Act, for the words "the Central Government, the State Government", the words "the Government" shall be substituted.

8. Amendment of section 10, Act LXV of 1949.—In section 10 of the principal Act, for sub-section (2), the following sub-sections shall be substituted, namely:—

"(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the transfer of abducted persons from one camp to another, whether within the State or without the State;

(b) the maintenance of health and good order in camps and of harmonious relations among the abducted persons detained therein;

(c) the composition, powers and functions of, and the procedure to be followed by, the Tribunal to be constituted under section 6;

(d) the manner in which and the time within which any application for the revision of any order of the Tribunal may be made under section 6;

(e) the manner in which any abducted person may be delivered to the custody of any officer or authority under section 7, or restored to his or her relatives, or conveyed out of India by any such officer or authority.

(3) In making any rule under clause (b) of sub-section (2), the Central Government may provide that a breach thereof shall be tried and punished by the person in charge of the camp in such manner as may be prescribed in the rules:

Provided that no abducted person shall be liable to be tried in a criminal court in respect of any offence punishable under any such rule."

9. Repeal.—The Abducted Persons (Recovery and Restoration) Amendment Ordinance, 1952 (IX of 1952), is hereby repealed.

K. V. K. SUNDARAM,
Secy. to the Govt. of India.

